

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

JEFFREY RANK and  
NICOLE RANK

Plaintiff

v.

Civil Action No.: 2:04-0997

TOM HAMM and  
CHRIS SMITH and  
TIM M. JOHNSON and  
SERGEANT H.E. SHAVER and  
OFFICER G. SCOTT FERNATT and  
TROOPER JOHN HAMILTON and  
SERGEANT H.P. EPPERHART

Defendants

MEMORANDUM OPINION AND ORDER

Pending is plaintiffs' motion to conduct discovery  
prior to the Rule 26(f) conference, filed March 10, 2006.

Federal Rule of Civil Procedure 26(d) provides as  
follows:

Except in categories of proceedings exempted from  
initial disclosure under Rule 26(a)(1)(E), or when  
authorized. . . by order . . . , a party may not seek  
discovery from any source before the parties have  
conferred as required by Rule 26(f). . . .

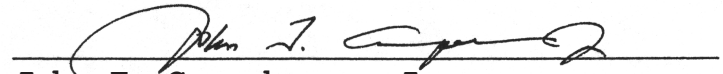
Fed. R. Civ. Proc. 26(d); see also Crawford-El v. Britton, 523  
U.S. 574, 599 (1998) (citing the Rule and observing "[T]he court  
may . . . set the timing and sequence of discovery.").

On March 16, 2006, the court ordered the defendants to respond to plaintiffs' pending motion no later than March 24, 2006. To date, the court has received only the response of defendant Tom Hamm, who states he does not oppose the motion. The court, accordingly, ORDERS as follows:

1. That plaintiffs' motion to conduct discovery prior to the Rule 26(f) conference be, and it hereby is, granted;
2. That plaintiffs be, and they hereby are, granted leave to depose the defendants on five days notice;
3. That the parties be, and they hereby are, directed to conduct their Rule 26(f) meeting no later than April 11, 2006;
4. That the plaintiffs be, and they hereby are, directed to file no later than April 13, 2006, a report of the parties' Rule 26(f) meeting; and
5. That a scheduling conference with the court be, and it hereby is, set down for April 21, 2006, at 11:00 a.m. Lead counsel shall appear in person.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record via facsimile or equally expeditious means.

DATED: March 29, 2006

  
John T. Copenhaver, Jr.  
United States District Judge